

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Timothy M. Swager et al.  
Serial No.: 10/823,093  
Confirmation No.: 3154  
Filed: April 12, 2004  
For: EMISSIVE SENSORS AND DEVICES INCORPORATING THESE  
SENSORS  
Examiner: D. S. Metzmaier  
Art Unit: 1796

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I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: September 22, 2008

  
Signature

**RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notice of Non-Compliant Amendment mailed August 20, 2008, Applicant hereby resubmits the election of Group I, claims 32-65 and 81 for continued examination, with traverse. Applicant notes that a response to the Election/Restriction Requirement mailed April 25, 2008, was filed on May 27, 2008, rather than April 23, 2008, as indicated in the Notice of Non-Compliant Amendment.

The Election/Restriction Requirement mailed April 25, 2008 also required an election of species. Applicant hereby elects the structure of claim 52, but further limited whereby A110-119 are hydrogen, Q is nitrogen, and Y is  $-\text{CH}_2-\text{Si}(\text{t-Bu})\text{Me}_2$ .

While Applicant does not concede that other claims would not also encompass the above-identified species, the following claims appear to form a group commensurate with the elected species for search and examination purposes only: claims 32-38, 40-49, 52-53, 55-65, and 81.

As requested in the Notice of Non-Compliant Amendment, Applicant also includes a list of claims with the proper status identifiers, enclosed herewith as Appendix A.

A first and favorable action is respectfully requested. If, for any reason, the Examiner is of the opinion that a telephone conversation with the Applicant's representative would expedite prosecution, the Examiner is requested to contact the undersigned at 617-646-8000.

Dated: September 22, 2008

Respectfully submitted,

By 

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